

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julia Moran	Team: Squad #6	CCRB Case #: 202005010	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/31/2020 10:00 PM, Sunday, 05/31/2020 10:00 PM	Location of Incident: 273 Utica Avenue 77th Precinct	Precinct: 77	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 07/14/2020 2:30 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 07/14/2020 2:30 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Tiffany Martinez	02382	965310	077 PCT
2. POM Michael Maynard	05449	958911	077 PCT
3. POF Samantha Love	02842	966677	077 PCT
4. SGT Shaundel Murrell	05584	946048	077 PCT
5. POM Tshering Sherpa	12950	968803	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Shaundel Murrell	Abuse: In front of 273 Utica Avenue in Brooklyn, Sergeant Shaundel Murrell stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POF Tiffany Martinez	Abuse: In front of 273 Utica Avenue in Brooklyn, Police Officer Tiffany Martinez frisked § 87(2)(b)	
C.POF Tiffany Martinez	Abuse: In front of 273 Utica Avenue in Brooklyn, Police Officer Tiffany Martinez searched § 87(2)(b)	
D.POF Tiffany Martinez	Abuse: In front of 273 Utica Avenue in Brooklyn, Police Officer Tiffany Martinez searched the vehicle in which § 87(2)(b) was an occupant.	
E.POM Michael Maynard	Abuse: In front of 273 Utica Avenue in Brooklyn, Police Officer Michael Maynard searched the vehicle in which was an occupant.	
F.POF Samantha Love	Discourtesy: Police Officer Samantha Love spoke discourteously to an individual.	
G.POF Tiffany Martinez	Abuse: Police Officer Tiffany Martinez failed to provide § 87(2)(b) with a business card.	
H.POM Michael Maynard	Abuse: Police Officer Michael Maynard failed to provide § 87(2)(b) with a business card.	
I.SGT Shaundel Murrell	Abuse: Sergeant Shaundel Murrell failed to provide § 87(2)(b) with a business card.	
J.POM Tshering Sherpa	Abuse: Police Officer Tshering Sherpa did not process § 87(2)(b)'s complaint regarding officers.	
§ 87(4-b), § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 14, 2020, during a phone interview with § 87(2)(b) for CCRB case number 202004429, § 87(2)(b) made a complaint regarding this incident.

On May 31, 2020, at approximately 10 p.m., Sgt. Shaundel Murrell along with PO Tiffany Martinez, PO Samantha Love, and Michael Maynard of the 77th Precinct participated in the vehicle stop of § 87(2)(b) (**Allegation A: Abuse of Authority** – § 87(2)(g) PO Martinez told him that they smelled weed and asked for his ID. PO Martinez and PO Maynard both asked § 87(2)(b) to step out of his vehicle and he complied. PO Martinez then frisked and searched § 87(2)(b) (**Allegations B and C: Abuse of Authority** – § 87(2)(g) PO Martinez and PO Maynard then searched the entirety of his vehicle (**Allegation D and E: Abuse of Authority** – § 87(2)(g) While § 87(2)(b) spoke with the officers, PO Love says under her breath “dumbass” (**Allegation F: Discourtesy** – § 87(2)(g) As the officers walked back to their vehicle, an unidentified individual asked the officers for their names and shield numbers. In response, PO Love told her to “go fuck yourself” (**within Allegation F**). No officer provided a business card (**Allegations G, H, and I: Abuse of Authority** – § 87(2)(g)

Following the vehicle stop, § 87(2)(b) drove to the 77th Precinct. The precinct was barricaded off due to protests in the area. § 87(2)(b) spoke to PO Tshering Sherpa of the 77th Precinct outside in front of the stationhouse and asked to file a complaint against officers. PO Sherpa told him that they could not go to the precinct and make a complaint because of protests and gave him a number and told him to file a complaint online (**Allegation J: Abuse of Authority** – § 87(2)(g) § 87(2)(b) then left. § 87(4-b), § 87(2)(g)

No summons was issued and no arrests were made.

Four BWC were obtained in regards to this incident (BR 01).

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Shaundel Murrell stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b)'s vehicle has tinted windows. § 87(2)(g)

§ 87(2)(b) testified that he drove alone down Utica Avenue towards Eastern Parkway (BR 02). His vehicle is a grey Infiniti with tinted windows and license plate #§ 87(2)(b) § 87(2)(b) passed a marked police vehicle on St. John's Place as he drove down Utica Avenue. The marked vehicle made a right turn and followed § 87(2)(b) The unmarked vehicle then put on their sirens and told § 87(2)(b) to pull over. § 87(2)(b) pulled over in front of the Subway located at 273 Utica Avenue. The unmarked vehicle parked behind § 87(2)(b) and four officers approached him.

Sgt. Murrell testified that he along with PO Love, PO Maynard, and PO Martinez, observed a moving vehicle with tinted windows on Utica Avenue (BR11). Sgt. Murrell could not recall how dark the tints were, but they were an illegal standard.

PO Martinez, PO Love, and PO Maynard's testimonies were consistent with Sgt. Murrell's

testimony about observing § 87(2)(b) s tinted windows (BR 09, 10, 12).

Vehicle Traffic Law 375.12-b states that no person shall operate any motor vehicle upon any public highway, road or street the front windshield of which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent unless such materials are limited to the uppermost six inches of the windshield; or the sidewings or side windows of which on either side forward of or adjacent to the operator's seat are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent (BR 15). Police officers may legally stop a vehicle when they have probable cause to believe that a traffic violation has occurred, regardless of their primary motivation. People v. Robinson, 97 N.Y.2d 341 (2001) (BR 14).

§ 87(2)(g)

Allegation (B) Abuse of Authority: In front of 273 Utica Avenue in Brooklyn, Police Officer Tiffany Martinez frisked § 87(2)(b)

Allegation (C) Abuse of Authority: In front of 273 Utica Avenue in Brooklyn, Police Officer Tiffany Martinez searched § 87(2)(b)

Allegation (D) Abuse of Authority: In front of 273 Utica Avenue in Brooklyn, Police Officer Tiffany Martinez searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (E) Abuse of Authority: In front of 273 Utica Avenue in Brooklyn, Police Officer Michael Maynard searched the vehicle in which was an occupant.

It is undisputed that PO Martinez frisked § 87(2)(b) and entered his pants' pockets. It is also undisputed that PO Martinez and PO Maynard searched the entirety of § 87(2)(b) s vehicle, including his trunk.

No property vouchers were prepared for this incident and no contraband was recovered from § 87(2)(b) or his vehicle.

At the 2:00 minute mark of PO Martinez's BWC, PO Martinez asked § 87(2)(b) if he smoked because she smelled weed. § 87(2)(b) said he did not smoke. At 2:53 minutes, PO Martinez asked § 87(2)(b) if he had anything in his pockets before she frisks him and searches him. At 3:35 minutes, PO Martinez entered § 87(2)(b) s vehicle via the front driver's side door. At 3:49, she searched the front center console of the vehicle. It is unclear if she removed anything. At 4:12 minutes, PO Martinez searched the bottom of the driver's seat. She then opened the back-driver's side door and entered the vehicle. PO Martinez looked through a black bag located on the back seat and the back console. At 5:46, PO Martinez said that § 87(2)(b) has weed right there. It is unclear where she was referring. PO Martinez opened the trunk at 8:03 minutes. She opened a bag and looked through it. She then removed several items and placed them on the ground. At 11:17 minutes, PO Martinez told § 87(2)(b) that she stopped his vehicle because of his tints, his vehicle smelled like weed, and he had a bag of weed in his vehicle (BR 07).

At the 3:29 mark of PO Maynard's BWC, PO Martinez frisked the front of § 87(2)(b) s sweatshirt. She then asked him if he had anything in his pockets and § 87(2)(b) says no. PO Martinez then frisked § 87(2)(b) s legs. At 3:53 minutes, PO Martinez's left hand was in § 87(2)(b) s front pants pocket. At 4:54 minutes, § 87(2)(b) said that he had not smoked weed all day. At the 5:12 mark, PO Maynard opened the front passenger door and entered the vehicle. He

opened various compartments and looked through them. At 5:51 minutes, PO Maynard asked another officer if there was a lot of stuff somewhere. He then removed items from the center console. PO Maynard asked PO Martinez if they cleared an area because there were rolling papers in there. At 6:19 minutes, PO Maynard entered through the back-passenger's side door. He searched through a pile of clothing on the seat and then the back console. At 8:43 minutes, PO Maynard told § 87(2)(b) that PO Martinez had a legal reason to stop him because of his window tints (BR 08).

§ 87(2)(b) testified that he rolled all his vehicle's windows down as PO Martinez and PO Maynard approached on the driver's side. PO Martinez asked § 87(2)(b) for his ID and told him that she smelled weed. PO Martinez and PO Maynard asked § 87(2)(b) to step out of his vehicle and he complied. Once he exited, either PO Martinez or PO Maynard frisked him. The officer made contact with every part of his body and entered the front and back pockets of his jeans. The officer did not recover anything. When § 87(2)(b) went to the rear of his vehicle, he saw PO Martinez search his vehicle. PO Martinez then told § 87(2)(b) to sit in his vehicle and told him to open his trunk. § 87(2)(b) told her that he did not consent to a search of the trunk. PO Martinez then took his keys and opened his trunk. After the officers searched his vehicle, PO Maynard told § 87(2)(b) that they pulled him over for his tints. When § 87(2)(b) asked PO Martinez if she found weed, she stated there was weed in the backseat of the vehicle. § 87(2)(b) did not have any weed in his vehicle.

PO Martinez testified that she asked § 87(2)(b) numerous times to step out of the vehicle so they could check him for safety measures. § 87(2)(b) was combative and yelled and refused to step out. § 87(2)(b) and the officers went back and forth for about a minute trying to get him to exit his vehicle. PO Martinez and PO Maynard patted § 87(2)(b) on his waist band to check that there were no weapons. There was nothing specific that PO Martinez could recall about whether § 87(2)(b) had any weapons on his body. Nothing was recovered on § 87(2)(b). Neither PO Martinez nor PO Maynard entered any of § 87(2)(b)'s pockets. PO Martinez made the decision to search the vehicle because she smelled marijuana and observed a bag of marijuana in the back of the vehicle. During the search, PO Martinez found a small bag of marijuana in the back seat that had residue, but it was not a significant amount. PO Martinez informed § 87(2)(b) of the bag.

PO Maynard testified that upon approaching § 87(2)(b)'s vehicle, he smelled burnt marijuana. PO Martinez searched § 87(2)(b)'s vehicle on the driver's side, he searched on the passenger side. PO Maynard did not recall if there was any conversation amongst the officers about searching § 87(2)(b)'s vehicle. It was a team decision to search § 87(2)(b)'s vehicle.

PO Love smelled marijuana while she approached the vehicle. She could not recall if the odor was burnt or unburnt marijuana. She could not say where she was when she first smelled the marijuana. PO Love could not remember how she knew the smell was coming from § 87(2)(b)'s vehicle and not the surrounding area. No conversation was had amongst the officers about the smell of marijuana. PO Love did not recall seeing any marijuana in § 87(2)(b)'s vehicle, but Sgt. Murrell indicated with his hand that there was something in the vehicle. She did not know what he was specifically referring to. She learned that there was marijuana in the cup holder but did not recall how she found out about it.

Sgt. Murrell observed a small amount of marijuana inside § 87(2)(b)'s vehicle as he approached the vehicle. He could not recall where in the vehicle the marijuana was or how much marijuana he observed, only that it was an insignificant amount. He could not recall what form the marijuana was in, but it was green and leafy. The windows of § 87(2)(b)'s vehicle were rolled down, but he could not recall which ones. Sgt. Murrell did not smell an odor of marijuana. He could not say if

there was any conversation amongst the officers about the marijuana. Sgt. Murrell did not know if any officer entered § 87(2)(b)'s vehicle and did not observe any officer search his vehicle. He never became aware of any officer searching § 87(2)(b)'s vehicle. There was no discussion amongst officers about searching his vehicle.

§ 87(2)(g)

Allegation (F) Discourtesy: Police Officer Samantha Love spoke discourteously to

§ 87(2)(b)

This allegation was captured via BWC footage and was not alleged by a civilian.

At the 10:04 mark, § 87(2)(b) was speaking with officers and PO Love's BWC footage captured her say under her breath "dumbass." It is unclear who the profanity was directed towards. At 12:16, § 87(2)(b) asked the officers what their badge numbers were and then asks if the officers were going to ignore her. In response, PO Love stated again in a low tone, "go fuck yourself" (BR 05).

PO Love did not recall using any profanity. Upon reviewing her BWC from the 10:00 minute to 10:05 minute mark, PO Love testified that she could only hear people mumbling and could not hear someone saying "dumbass." The video was then played from the 12:17 mark to the 12:21 mark and PO Love heard someone say, "go fuck yourself," but she could not recognize who said it. She testified that it could have been herself or someone else on scene. She could not say who else could have made the statement. PO Martinez was the only other female officer on scene.

DAO-DCT Case number 2017-17005 states that the tribunal has held that profane remarks, made during stressful situations or while an officer is trying to get a chaotic situation under control, are not misconduct (BR 16). The NYPD is committed to accomplishing its mission by treating every citizen with compassion, courtesy, professionalism and respect. Officers pledge to value human life, respect the dignity of each individual and render our services with courtesy and civility, Patrol Guide Section 200-02 (BR 17).

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer Tiffany Martinez failed to provide § 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Police Officer Michael Maynard failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Sergeant Shaundel Murrell failed to provide § 87(2)(b) with a business card.

It is undisputed that PO Martinez, Sgt. Murrell, and PO Maynard stopped § 87(2)(b)'s vehicle. Additionally, it is undisputed that PO Martinez frisked and searched § 87(2)(b) and PO Martinez and PO Maynard searched his vehicle. It is also undisputed that § 87(2)(b) was not issued a summons or arrested, and no officer provided § 87(2)(b) with a business card.

PO Martinez, Sgt. Murrell, and PO Maynard all testified that they did not provide § 87(2)(b) with a business card and that it was not a situation where they would have had to provide one.

Patrol Guide Procedure 203-09 states that a business card is to be offered for a law enforcement activity, except in cases when a summons is issued or an arrest is made, such as a stop where an officer has an individualized, reasonable suspicion that the person stop has committed, if committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter, a frisk, and a search of persons or property, including vehicles (BR 18).

§ 87(2)(g)

Allegation (J) Abuse of Authority: Police Officer Tshering Sherpa did not process § 87(2)(b)'s complaint regarding officers.

This interaction was not captured on BWC or stationhouse footage.

Following the incident, § 87(2)(b) along with an unidentified female friend, drove to the 77th Precinct. The precinct was barricaded due to protests in the area. § 87(2)(b) spoke with PO Sherpa, who was standing outside of the precinct and stated that he wanted to make a complaint against an officer. PO Sherpa responded that due to the protests he was not allowed inside the precinct. PO Sherpa gave § 87(2)(b) a phone number and told him to file a complaint online. § 87(2)(b) then left.

§ 87(2)(b) did not provide the name or contact information of the unidentified female and she was unavailable to the investigation.

PO Sherpa testified he was assigned to stationhouse security and that there were barricades outside the precinct during these months because of the ongoing protests. PO Sherpa did not recall if any civilian spoke with him about wanting to file a complaint against officers. PO Sherpa did not recall telling § 87(2)(b) that he could not go inside the precinct and make a complaint because of the protests happening during this time. He did not recall giving § 87(2)(b) a phone number and telling him he could file a complaint online or giving any civilian on this day information about where to file a complaint online (BR 13).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to three CCRB complaints and has been named a victim in six allegations (BR 19).
 - § 87(2)(b)
 -
- PO Sherpa has been a member of service for one year and this is the first CCRB complaint to which he has been a subject (BR 20).
- PO Martinez has been a member of service for three years and has been a subject in three CCRB complaints and ten allegations, none of which were substantiated. § 87(2)(g)
- PO Maynard has been a member of service for five years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Love has been a member of service for one year and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Sgt. Murrell has been a member of service for 13 years and has been a subject in one CCRB complaint and two allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of October 19, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 25).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 6

Investigator: Julia Moran Inv. Julia Moran 1/25/2022
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 1/25/2022
Signature Print Title & Name Date

Reviewer:
Signature Print Title & Name Date